

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Michael Frasier, #215880,)	C/A No. 4:21-31-DCC-TER
	Plaintiff,)
vs.)
)
Dr. Alden,)	ORDER
	Defendant.)
)

This is a civil action filed by a state prisoner, proceeding *pro se*, who has paid the filing fee. On June 10, 2021, a summons only¹ for Defendant Alden was issued. (ECF No. 46). Plaintiff was warned: “Under Rule 4(m), unless a Defendant is served within 90 days after the summonses are issued as directed by this Order, that particular unserved Defendant may be dismissed without prejudice from this case.” (ECF No. 44). Service was due by September 8, 2021, and Plaintiff had made no communication with the court from June 2021 to March 2022.

On April 5, 2022, the undersigned recommended the action be dismissed under Rule 4 without prejudice. (ECF No. 55). Plaintiff objected to the recommendation arguing lockdown had caused delays as well as injury to himself and stating “Plaintiff has submitted Defendant in this case with the necessary complaint.” (ECF No. 57). The district judge declined to adopt the recommendation of dismissal due to the assertion Plaintiff had served Dr. Alden. The district judge ordered Plaintiff to submit proof of service pursuant to Rule 4(l)(1). (ECF No. 59).

Plaintiff did not submit proof of service. Liberally construed, Plaintiff is requesting the court’s assistance by submitting documents “so that Defendant can be summoned and served properly by the United States Marshal Service.” (ECF No. 62). Liberally construed, because Plaintiff is asking for assistance with service by the USMS, Plaintiff is necessarily asking for an extension to complete service since Plaintiff’s Rule 4 time has already run. Plaintiff’s motion is granted.(ECF No. 62). The Clerk is directed to complete, re-issue, and forward the service documents, Summons(ECF No. 41), Form 285(ECF No. 57-1), prior Serve Order(ECF No. 44), Amended Complaint(ECF No. 23), and this order to the USMS. The USMS may request from Plaintiff advance payment of the estimated fees and expenses for service of process as the USMS is authorized by law (28 U.S.C. 1921) to charge fees (established by regulation, 28 CFR 0.114) for service of process. Time to complete service runs from the date the new summons is issued.

IT IS SO ORDERED.

May 12, 2022
Florence, South Carolina

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge

¹ The caption above is reflective of the current docket as the prior Report and Recommendation which dismissed and terminated the other Defendants was adopted in August 2021.